



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 1

RIN 2900-AR39

Release of Information from Department of Veterans Affairs' Records

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs' (VA) regulations governing the submission and processing of requests for information under the Freedom of Information Act (FOIA).

DATES: This rule is effective [insert date 30 days after date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Catherine Nachmann, Attorney, Office of General Counsel (024), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 461-7742 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On April 1, 2019, VA published a final rule in the Federal Register [84 FR 12122]. The final rule amended VA's regulations pertaining to release of information under 5 U.S.C. 552 and implementation of the FOIA, codified at 38 CFR 1.550 through 1.562, and implemented amendments in the FOIA Improvement Act of 2016, Public Law 114-185, and those governing release of information from claimant records protected under the Privacy Act of 1974, namely 38 CFR 1.577(c) and (e) and 1.580. VA also amended the regulations to clarify sections as needed and streamline VA processes regarding release of information.

VA is now revising its regulation at 38 CFR 1.552, General Provisions, to change VA FOIA Service's website address. A Notice of Proposed Rulemaking is not required because no substantive changes are being proposed.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3521).

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The provisions of this rulemaking only involve internal agency processes and no entities outside of VA. This final rule does not concern fees. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause under the provisions of 5 U.S.C. 553(b)(B) to publish this rule without prior opportunity for public comment. Publication as a final rule will allow individuals who want to access VA FOIA Service's website to do so without delay or the additional effort required to access another website address after redirection. Delay in updating the address would be contrary to the public interest because currently, individuals who seek information about VA's FOIA program are directed to a non-functioning website. To facilitate public access to such information, VA is issuing this rule as a final rule without a comment period.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year. This final rule would have no such effect on state, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

List of Subjects in 38 CFR Part 1

Administrative Practice and Procedure, Archives and Records, Cemeteries, Claims, Courts, Crime, Flags, Freedom of information, Government Contracts, Government Employees, Government Property, Infants and Children, Inventions and Patents, Parking, Penalties, Privacy, Reporting and Recordkeeping Requirements, Seals and Insignia, Security Measures, and Wages.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on October 26, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Consuela Benjamin,

*Regulations Development Coordinator,
Office of Regulation Policy & Management,
Office of General Counsel,
Department of Veterans Affairs.*

For the reasons stated in the preamble, VA amends 38 CFR part 1 as follows:

PART 1—GENERAL PROVISIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 38 U.S.C. 501(a).

2. In § 1.552, revise paragraph (a) to read as follows.

§ 1.552 General provisions.

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(a) *Additional information.* Information regarding VA's FOIA and Privacy Act process generally, including how to file FOIA requests, and information made available by VA under the FOIA, is available at the following internet address:

<https://www.va.gov/foia>.

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